

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-6590**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DAVIN LAMONT SMITH,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Wilmington. James C. Fox, Senior District Judge. (CR-02-17-F)

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Submitted: November 30, 2004

Decided: December 21, 2004

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Before NIEMEYER and LUTTIG, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Davin Lamont Smith, Appellant Pro Se. David J. Cortes, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Davin Lamont Smith appeals the district court's order denying his motion for modification of his sentence under 18 U.S.C. § 3582(c)(2) (2000). We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. See United States v. Smith, No. CR-02-17-F (E.D.N.C. Feb. 23, 2004). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED